

## **NOTICE OF PROPOSED REGULATIONS**

### **California Code of Regulations Title 15, Crime Prevention and Corrections**

#### **Division 8 California Prison Industry Authority**

**NOTICE IS HEREBY GIVEN** that the California Prison Industry Authority (CALPIA) and the Prison Industry Board (PIB) pursuant to the authority granted by Penal Code (PC) Sections 2801 and 2808 in order to implement, interpret and make specific PC Sections 832.5, 2801, 2805 and 2807, and Labor Code Sections 6303 and 6304.3 propose to amend Section 8000 of Article 1 and adopt Sections 8007 and 8008 of Article 3 of the California Code of Regulations (CCR), Title 15, Division 8 concerning CALPIA Inmate Appeals and CALPIA Health or Safety Complaints.

#### **PUBLIC HEARING:**

Date and Time: April 15, 2011 – 10:00 am to 11:30 am  
Place: CALPIA Central Office  
560 East Natoma Street  
Folsom, CA 95630  
Purpose: To receive comments about this action.

#### **PUBLIC COMMENT PERIOD:**

The public comment period will close, April 15, 2011 at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CALPIA, Legal Services Unit, Regulation and Policy Manager, 560 East Natoma Street, Folsom, CA 95630; by fax at (916) 358-1610; or by e-mail at [CALPIAregs@calpia.ca.gov](mailto:CALPIAregs@calpia.ca.gov) before the close of the comment period.

#### **CONTACT PERSON:**

Please direct any inquiries regarding this action or questions of substance of the proposed regulatory action to:

**Ann Cunningham**  
**Regulation and Policy Manager**  
**California Prison Industry Authority**  
**560 East Natoma Street, CA 95630**  
**Telephone (916) 358-1711**

In the event the contact person is unavailable, inquires should be directed to the following back-up person:

**Lynn Braydis**  
**Legal Secretary**  
**California Prison Industry Authority**  
**Telephone (916) 358-1711**

### **LOCAL MANDATES:**

This action imposes no mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Government Code Sections 17500 through 17630.

### **FISCAL IMPACT STATEMENT:**

- Cost to any local agency or school district that is required to be reimbursed in accordance with Government Code Sections 17500 through 17630: *None*
- Cost or savings to any state agency: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

### **EFFECT ON HOUSING COSTS:**

The CALPIA under the authority of the PIB has made an initial determination that the proposed action will have no significant effect on housing costs.

### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:**

The CALPIA under the authority of the PIB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:**

The CALPIA under the authority of the PIB has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because they are not affected by the internal management of state prisons.

### **EFFECT ON SMALL BUSINESSES:**

The CALPIA under the authority of the PIB has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

### **ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION:**

The CALPIA under the authority of the PIB has determined that the proposed regulation will have no affect on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

### **CONSIDERATION OF ALTERNATIVES:**

The CALPIA under the authority of the PIB must determine that no reasonable alternative considered by the CALPIA, or that has otherwise been identified and brought to the attention of the CALPIA, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons, than the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

### **AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:**

The CALPIA under the authority of the PIB has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the CALPIA's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the CALPIA website <http://www.calpia.ca.gov>.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS:**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the CALPIA's contact person.

## **AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

After considering all timely and relevant comments received, the PIB may adopt the proposed regulations substantially as described in this Notice. If the CALPIA under the authority of the PIB makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the PIB adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The CALPIA under the authority of the PIB will accept written comments on the modified regulations for 15 days after the date on which they are made available.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

Pursuant to the authority granted by PC Section 2801 and 2808 in order to implement, interpret and make specific PC Sections 832.5, 2801, 2805 and 2807, and Labor Code Sections 6303 and 6304.3 propose to amend Section 8000 of Article 1 and adopt Sections 8007 and 8008 of Article 3 of the CCR, Title 15, Division 8 concerning CALPIA Inmate Appeals and CALPIA Health or Safety Complaints.

PC Section 2801 authorizes the CALPIA to develop and operate industrial, and service enterprises; to create and maintain working conditions within the enterprises as much like those which prevail in private industry, to assure prisoners employed therein the opportunity to work productively, to earn funds, and to acquire or improve effective work habits and occupational skills; and to operate a work program for prisoners which is self-supporting by generated sufficient funds from the sale of products and services.

PC Section 2808 authorizes the PIB's continued existence, therein maintaining the ability to exercise its duties, and have all of the powers and do all of the things that the board of directors of a private corporation would do, except as specifically limited in this section, specifically (a) through (k).

The CALPIA and the PIB have implied rulemaking authority to adopt regulations to implement, interpret or make specific the laws enforced or administered by CALPIA, or to govern its procedures.

This action proposes the adoption of text as follows:

- **Section 8000 includes** a definition of a Health or Safety Complaint.
- **New Section 8007 informs** CALPIA inmate workers to utilize the regular appeal process, to appeal any departmental decision, action, condition, or policy which they can demonstrate as having an adverse effect upon their welfare, except for CALPIA health or safety complaints.
- **New Section 8008 is adopted** to interpret law which establishes the CALPIA health or safety complaint process, and is therefore separate from the Regular Appeal Process. The regulations:
  - (a) Reiterate that the CALPIA health or safety complaint, shall not be submitted using the regular appeal process.
  - (b) Instruct inmates, should they encounter any urgent health or safety situation, to immediately report it to any staff available and not wait to file it in written format.
  - (c) Interpret LC 6304.3(b) to mean all complaints alleging unsafe or unhealthy working conditions are to be in written format and placed in a readily accessible complaint box or presented personally to any CALPIA staff member, in accordance with Title 8, Section 344.40(d).
  - (d) CALPIA staff members who receive a written health or safety complaint either after retrieving it from the complaint box or after being personally handed the written complaint, to then personally present it to a member of the local CALPIA Safety Committee.
  - (e) Restates existing law from LC 6304.3(b) to provide clarity to inmates that their complaint is to be reviewed and responded to within 15 calendar days of its filing.
  - (f) Provides instruction for inmates who are dissatisfied with the CALPIA safety committee response. Complainant can request to refer it to the Department of Industrial Relations, Division of Occupational Safety and Health (DOSH). CALPIA staff shall facilitate this complaint to the DOSH.